

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 191

Introduced by Nordquist, 7; Ashford, 20; Coash, 27; Dubas, 34;
Howard, 9; Lathrop, 12; Mello, 5; Schilz, 47.

Read first time January 14, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 49-801.01, 77-908, 77-2715.07, 77-2717, 77-2734.03, and
3 77-3806, Revised Statutes Cumulative Supplement, 2012; to
4 adopt the Nebraska Job Creation and Mainstreet
5 Revitalization Act; to provide tax credits as prescribed;
6 to harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and
2 may be cited as the Nebraska Job Creation and Mainstreet
3 Revitalization Act.

4 Sec. 2. For purposes of the Nebraska Job Creation and
5 Mainstreet Revitalization Act:

6 (1) Eligible expenditure means any cost incurred for the
7 improvement of historically significant real property located in the
8 State of Nebraska, including, but not limited to, qualified
9 rehabilitation expenditures as defined in section 47(c)(2) of the
10 Internal Revenue Code of 1986, as amended, and the related
11 regulations thereunder, if such improvement is in conformance with
12 the standards;

13 (2) Historically significant real property means real
14 property used for any purpose other than an owner-occupied single-
15 family detached residence, which, at the time of final approval of
16 the work by the officer pursuant to subdivision (2)(b) of section 3
17 of this act, is:

18 (a) Individually listed in the National Register of
19 Historic Places;

20 (b) Located within a district listed in the National
21 Register of Historic Places and is determined by the officer as being
22 historically significant to such district;

23 (c) Individually designated pursuant to a landmark
24 ordinance enacted by a political subdivision of the state that has
25 been approved by the officer and is determined by the officer as

1 being historically significant; or

2 (d) Located within a district designated pursuant to a
3 preservation ordinance or any other duly adopted local ordinance by a
4 political subdivision of the state providing for the rehabilitation,
5 preservation, or restoration of historically significant real
6 property that has been approved by the officer and is determined by
7 the officer as being historically significant to such district;

8 (3) Improvement means a rehabilitation, preservation, or
9 restoration project that contributes to the basis of the historically
10 significant real property and has a total cost of the greater of
11 twenty-five thousand dollars or twenty-five percent of the
12 historically significant real property's most recent assessed value;

13 (4) Officer means the State Historic Preservation
14 Officer;

15 (5) Person means any natural person or any limited
16 liability company, partnership, private domestic or private foreign
17 corporation, or domestic or foreign nonprofit corporation certified
18 pursuant to section 501(c)(3) of the Internal Revenue Code of 1986,
19 as amended;

20 (6) Placed in service means that either (a) a temporary
21 or final certificate of occupancy has been issued for the improvement
22 or (b) the improvement is sufficiently complete to allow for the
23 intended use of the improvement; and

24 (7) Standards means (a) the Secretary of the Interior's
25 Standards for the Treatment of Historic Properties as promulgated by

1 the United States Department of the Interior or (b) specific
2 standards for the rehabilitation, preservation, and restoration of
3 historically significant real property contained in a duly adopted
4 local preservation ordinance that has been approved by the officer.

5 Sec. 3. (1) Any person incurring eligible expenditures
6 may receive a nonrefundable credit against any income tax imposed by
7 the Nebraska Revenue Act of 1967, or any tax imposed pursuant to
8 sections 77-907 to 77-918 or 77-3801 to 77-3807, for the year the
9 historically significant real property is placed in service. The
10 amount of the credit shall be equal to (a) twenty percent of eligible
11 expenditures up to and including ten million dollars and (b) ten
12 percent of eligible expenditures in excess of ten million dollars.

13 (2) To claim the credit authorized under this section, a
14 person shall comply with each of the following requirements:

15 (a) Prior to commencing work on the historically
16 significant real property, a person shall file an application
17 containing all required information with the officer on a form
18 prescribed by the officer and shall include an application fee
19 established by the officer pursuant to section 4 of this act. The
20 officer shall determine whether to approve, approve with conditions,
21 or deny the application and shall provide the person filing the
22 application and the Department of Revenue with written notice of the
23 officer's determination. If the officer does not provide a written
24 notice of his or her determination within thirty days after the date
25 the person files an application containing all required information,

1 the application shall be deemed approved; and

2 (b) Within twelve months after the date on which the
3 historically significant real property is placed in service, a person
4 whose application was approved under subdivision (2)(a) of this
5 section shall file a request for final approval containing all
6 required information with the officer on a form prescribed by the
7 officer and shall include a fee established by the officer pursuant
8 to section 4 of this act. The officer shall then determine whether
9 the work substantially conforms to the application approved under
10 subdivision (2)(a) of this section. If the work substantially
11 conforms and no other significant improvements have been made to the
12 historically significant real property that do not substantially
13 comply with the standards, the officer shall approve the request for
14 final approval and refer the application to the Department of Revenue
15 to determine the amount of eligible expenditures, calculate the
16 amount of the credit, and issue a certificate to the person
17 evidencing the credit. If the work does not substantially conform to
18 the approved application or if other significant improvements have
19 been made to the historically significant real property that do not
20 substantially comply with the standards, the officer shall deny the
21 request for final approval and provide the person with a written
22 explanation of the decision. The officer shall make a determination
23 on the request for final approval in writing within thirty days after
24 the filing of the request. If the officer does not make a
25 determination within thirty days after the filing of the request, the

1 request shall be deemed approved and the person may petition the
2 Department of Revenue directly to determine the amount of eligible
3 expenditures, calculate the amount of the credit, and issue a
4 certificate evidencing the credit. The department shall divide the
5 credit and issue multiple certificates to a person who qualifies for
6 the credit upon reasonable request.

7 (3) The Department of Revenue shall not issue any
8 certificates for credits under subsection (2) of this section until
9 the recipient of the credit has paid to the department a fee equal to
10 the lesser of either one-quarter of one percent of the credit amount
11 or twenty-five thousand dollars. The department shall remit such fees
12 to the State Treasurer for credit to the Civic and Community Center
13 Financing Fund.

14 (4) Notwithstanding subdivision (2)(a) of this section,
15 the person applying for the credit authorized under this section may,
16 at its own risk, incur eligible expenditures up to six months prior
17 to the submission of the application required under subdivision (2)
18 (a) of this section if such eligible expenditures are limited to
19 architectural fees, accounting and legal fees, and any costs related
20 to the protection of the historically significant real property from
21 deterioration.

22 (5) If the recipient of the credit is (a) a corporation
23 having an election in effect under subchapter S of the Internal
24 Revenue Code of 1986, as amended, (b) a partnership, or (c) a limited
25 liability company, the credit may be claimed by the shareholders of

1 the corporation, the partners of the partnership, or the members of
2 the limited liability company in the same manner as those
3 shareholders, partners, or members account for their proportionate
4 shares of the income or losses of the corporation, partnership, or
5 limited liability company, or as provided in the bylaws or other
6 executed agreement of the corporation, partnership, or limited
7 liability company. Credits granted to a partnership, a limited
8 liability company taxed as a partnership, or other multiple owners of
9 property shall be passed through to the partners, members, or owners,
10 respectively, on a pro rata basis or pursuant to an executed
11 agreement among the partners, members, or owners documenting any
12 alternate distribution method.

13 (6) Any credit amount that is unused may be carried
14 forward to subsequent tax years until fully utilized.

15 (7) Credits allowed under this section may be claimed for
16 taxable years beginning or deemed to begin on or after January 1,
17 2015, under the Internal Revenue Code of 1986, as amended.

18 Sec. 4. The officer shall establish and collect the
19 application fee required pursuant to subdivision (2)(a) of section 3
20 of this act and the fee for the request for final approval required
21 pursuant to subdivision (2)(b) of section 3 of this act. Such fees
22 shall be in amounts sufficient to offset the costs of processing and
23 monitoring applications filed under the Nebraska Job Creation and
24 Mainstreet Revitalization Act. Such fees shall be remitted by the
25 officer to the State Treasurer for credit to the Nebraska Job

1 Creation and Mainstreet Revitalization Fund.

2 Sec. 5. All or a portion of the credit received under
3 section 3 of this act shall be subject to recapture from the person
4 filing the original application under section 3 of this act by the
5 Department of Revenue if at any time during the five years after the
6 historically significant real property is placed into service the
7 officer or the Department of Revenue determines the historically
8 significant real property has been the subject of work not in
9 substantial conformance with the standards, the approved application,
10 or the documents from which the credit was calculated. If the person
11 filing the original application is a partnership or limited liability
12 company, the liability of the partners or members for recapture shall
13 be proportionate to their ownership in the applicant partnership or
14 limited liability company. Any action to recapture credits under this
15 section may proceed after a written notice is given to the applicant
16 and the applicant is allowed a six-month cure period. Thereafter, the
17 credit shall be subject to recapture as follows:

18 (1) If the event causing recapture occurs during the
19 first year after the historically significant real property is placed
20 into service, one hundred percent of the credit may be recaptured;

21 (2) If the event causing recapture occurs during the
22 second year after the historically significant real property is
23 placed into service, eighty percent of the credit may be recaptured;

24 (3) If the event causing recapture occurs during the
25 third year after the historically significant real property is placed

1 into service, sixty percent of the credit may be recaptured;

2 (4) If the event causing recapture occurs during the
3 fourth year after the historically significant real property is
4 placed into service, forty percent of the credit may be recaptured;
5 and

6 (5) If the event causing recapture occurs during the
7 fifth year after the historically significant real property is placed
8 into service, twenty percent of the credit may be recaptured.

9 Sec. 6. Persons eligible for credits under the Nebraska
10 Job Creation and Mainstreet Revitalization Act may transfer, sell, or
11 assign all or any portion of the credits to any person or legal
12 entity by transferring possession of the certificate received for
13 such credits under section 3 of this act to the person acquiring the
14 credits. Credits may be transferred, sold, or assigned multiple
15 times, either in whole or in part. Any person acquiring credits under
16 this section may use such credits to offset up to one hundred percent
17 of such person's tax due under the Nebraska Revenue Act of 1967, or
18 any tax imposed pursuant to sections 77-907 to 77-918 or 77-3801 to
19 77-3807, in the year the credits are acquired and in subsequent years
20 until all credits have been utilized. The person transferring,
21 selling, or assigning the credits shall notify the officer and the
22 Department of Revenue in writing within fifteen calendar days
23 following the effective date of the transfer, sale, or assignment and
24 shall provide any information as may be required by the Department of
25 Revenue or the officer to administer and carry out the Nebraska Job

1 Creation and Mainstreet Revitalization Act. Such written notification
2 to the Department of Revenue shall perfect the transfer, sale, or
3 assignment of credits. Only the person filing the original
4 application for credits under section 3 of this act, and not any
5 person to whom such credits are transferred, sold, or assigned, shall
6 be liable for any recapture of the credits under section 5 of this
7 act. The Department of Revenue shall develop a system to track the
8 transfer, sale, and assignment of credits and to certify the
9 ownership of the credits. The Department of Revenue shall have, with
10 respect to the Nebraska Job Creation and Mainstreet Revitalization
11 Act, all authority granted to it in section 77-27,119.

12 Sec. 7. The Nebraska State Historical Society and the
13 Department of Revenue may each adopt and promulgate rules and
14 regulations to carry out the Nebraska Job Creation and Mainstreet
15 Revitalization Act.

16 Sec. 8. The Nebraska Job Creation and Mainstreet
17 Revitalization Fund is created. The fund shall be administered by the
18 Nebraska State Historical Society and shall consist of all fees
19 credited to the fund pursuant to section 4 of this act. The fund
20 shall be used to administer and enforce the Nebraska Job Creation and
21 Mainstreet Revitalization Act. Any money in the fund available for
22 investment shall be invested by the state investment officer pursuant
23 to the Nebraska Capital Expansion Act and the Nebraska State Funds
24 Investment Act.

25 Sec. 9. There shall be no new applications filed under

1 the Nebraska Job Creation and Mainstreet Revitalization Act on or
2 after January 1, 2020. All applications and all credits pending or
3 approved before such date shall continue in full force and effect.

4 Sec. 10. Section 49-801.01, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 49-801.01 Except as provided by Article VIII, section 1B,
7 of the Constitution of Nebraska and in sections 77-1106, 77-1108,
8 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123,
9 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to
10 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803,
11 77-5806, 77-5903, 77-6302, and 77-6306 and sections 2 and 3 of this
12 act, any reference to the Internal Revenue Code refers to the
13 Internal Revenue Code of 1986 as it exists on March 8, 2012.

14 Sec. 11. Section 77-908, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 77-908 Every insurance company organized under the stock,
17 mutual, assessment, or reciprocal plan, except fraternal benefit
18 societies, which is transacting business in this state shall, on or
19 before March 1 of each year, pay a tax to the director of one percent
20 of the gross amount of direct writing premiums received by it during
21 the preceding calendar year for business done in this state, except
22 that (1) for group sickness and accident insurance the rate of such
23 tax shall be five-tenths of one percent and (2) for property and
24 casualty insurance, excluding individual sickness and accident
25 insurance, the rate of such tax shall be one percent. A captive

1 insurer authorized under the Captive Insurers Act that is transacting
2 business in this state shall, on or before March 1 of each year, pay
3 to the director a tax of one-fourth of one percent of the gross
4 amount of direct writing premiums received by such insurer during the
5 preceding calendar year for business transacted in the state. The
6 taxable premiums shall include premiums paid on the lives of persons
7 residing in this state and premiums paid for risks located in this
8 state whether the insurance was written in this state or not,
9 including that portion of a group premium paid which represents the
10 premium for insurance on Nebraska residents or risks located in
11 Nebraska included within the group when the number of lives in the
12 group exceeds five hundred. The tax shall also apply to premiums
13 received by domestic companies for insurance written on individuals
14 residing outside this state or risks located outside this state if no
15 comparable tax is paid by the direct writing domestic company to any
16 other appropriate taxing authority. Companies whose scheme of
17 operation contemplates the return of a portion of premiums to
18 policyholders, without such policyholders being claimants under the
19 terms of their policies, may deduct such return premiums or dividends
20 from their gross premiums for the purpose of tax calculations. Any
21 such insurance company shall receive a credit on the tax imposed as
22 provided in the Community Development Assistance Act, the Nebraska
23 Job Creation and Mainstreet Revitalization Act, and ~~in~~ the New
24 Markets Job Growth Investment Act.

25 Sec. 12. Section 77-2715.07, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 77-2715.07 (1) There shall be allowed to qualified
3 resident individuals as a nonrefundable credit against the income tax
4 imposed by the Nebraska Revenue Act of 1967:

5 (a) A credit equal to the federal credit allowed under
6 section 22 of the Internal Revenue Code; and

7 (b) A credit for taxes paid to another state as provided
8 in section 77-2730.

9 (2) There shall be allowed to qualified resident
10 individuals against the income tax imposed by the Nebraska Revenue
11 Act of 1967:

12 (a) For returns filed reporting federal adjusted gross
13 incomes of greater than twenty-nine thousand dollars, a nonrefundable
14 credit equal to twenty-five percent of the federal credit allowed
15 under section 21 of the Internal Revenue Code of 1986, as amended;

16 (b) For returns filed reporting federal adjusted gross
17 income of twenty-nine thousand dollars or less, a refundable credit
18 equal to a percentage of the federal credit allowable under section
19 21 of the Internal Revenue Code of 1986, as amended, whether or not
20 the federal credit was limited by the federal tax liability. The
21 percentage of the federal credit shall be one hundred percent for
22 incomes not greater than twenty-two thousand dollars, and the
23 percentage shall be reduced by ten percent for each one thousand
24 dollars, or fraction thereof, by which the reported federal adjusted
25 gross income exceeds twenty-two thousand dollars;

1 (c) A refundable credit as provided in section 77-5209.01
2 for individuals who qualify for an income tax credit as a qualified
3 beginning farmer or livestock producer under the Beginning Farmer Tax
4 Credit Act for all taxable years beginning or deemed to begin on or
5 after January 1, 2006, under the Internal Revenue Code of 1986, as
6 amended;

7 (d) A refundable credit for individuals who qualify for
8 an income tax credit under the Angel Investment Tax Credit Act, the
9 Nebraska Advantage Microenterprise Tax Credit Act, or the Nebraska
10 Advantage Research and Development Act; and

11 (e) A refundable credit equal to ten percent of the
12 federal credit allowed under section 32 of the Internal Revenue Code
13 of 1986, as amended.

14 (3) There shall be allowed to all individuals as a
15 nonrefundable credit against the income tax imposed by the Nebraska
16 Revenue Act of 1967:

17 (a) A credit for personal exemptions allowed under
18 section 77-2716.01;

19 (b) A credit for contributions to certified community
20 betterment programs as provided in the Community Development
21 Assistance Act. Each partner, each shareholder of an electing
22 subchapter S corporation, each beneficiary of an estate or trust, or
23 each member of a limited liability company shall report his or her
24 share of the credit in the same manner and proportion as he or she
25 reports the partnership, subchapter S corporation, estate, trust, or

1 limited liability company income;

2 (c) A credit for investment in a biodiesel facility as
3 provided in section 77-27,236; ~~and~~

4 (d) A credit as provided in the New Markets Job Growth
5 Investment Act; and -

6 (e) A credit as provided in the Nebraska Job Creation and
7 Mainstreet Revitalization Act.

8 (4) There shall be allowed as a credit against the income
9 tax imposed by the Nebraska Revenue Act of 1967:

10 (a) A credit to all resident estates and trusts for taxes
11 paid to another state as provided in section 77-2730;

12 (b) A credit to all estates and trusts for contributions
13 to certified community betterment programs as provided in the
14 Community Development Assistance Act; and

15 (c) A refundable credit for individuals who qualify for
16 an income tax credit as an owner of agricultural assets under the
17 Beginning Farmer Tax Credit Act for all taxable years beginning or
18 deemed to begin on or after January 1, 2009, under the Internal
19 Revenue Code of 1986, as amended. The credit allowed for each
20 partner, shareholder, member, or beneficiary of a partnership,
21 corporation, limited liability company, or estate or trust qualifying
22 for an income tax credit as an owner of agricultural assets under the
23 Beginning Farmer Tax Credit Act shall be equal to the partner's,
24 shareholder's, member's, or beneficiary's portion of the amount of
25 tax credit distributed pursuant to subsection (4) of section 77-5211.

1 (5)(a) For all taxable years beginning on or after
2 January 1, 2007, and before January 1, 2009, under the Internal
3 Revenue Code of 1986, as amended, there shall be allowed to each
4 partner, shareholder, member, or beneficiary of a partnership,
5 subchapter S corporation, limited liability company, or estate or
6 trust a nonrefundable credit against the income tax imposed by the
7 Nebraska Revenue Act of 1967 equal to fifty percent of the partner's,
8 shareholder's, member's, or beneficiary's portion of the amount of
9 franchise tax paid to the state under sections 77-3801 to 77-3807 by
10 a financial institution.

11 (b) For all taxable years beginning on or after January
12 1, 2009, under the Internal Revenue Code of 1986, as amended, there
13 shall be allowed to each partner, shareholder, member, or beneficiary
14 of a partnership, subchapter S corporation, limited liability
15 company, or estate or trust a nonrefundable credit against the income
16 tax imposed by the Nebraska Revenue Act of 1967 equal to the
17 partner's, shareholder's, member's, or beneficiary's portion of the
18 amount of franchise tax paid to the state under sections 77-3801 to
19 77-3807 by a financial institution.

20 (c) Each partner, shareholder, member, or beneficiary
21 shall report his or her share of the credit in the same manner and
22 proportion as he or she reports the partnership, subchapter S
23 corporation, limited liability company, or estate or trust income. If
24 any partner, shareholder, member, or beneficiary cannot fully utilize
25 the credit for that year, the credit may not be carried forward or

1 back.

2 Sec. 13. Section 77-2717, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 77-2717 (1)(a) The tax imposed on all resident estates
5 and trusts shall be a percentage of the federal taxable income of
6 such estates and trusts as modified in section 77-2716, plus a
7 percentage of the federal alternative minimum tax and the federal tax
8 on premature or lump-sum distributions from qualified retirement
9 plans. The additional taxes shall be recomputed by (i) substituting
10 Nebraska taxable income for federal taxable income, (ii) calculating
11 what the federal alternative minimum tax would be on Nebraska taxable
12 income and adjusting such calculations for any items which are
13 reflected differently in the determination of federal taxable income,
14 and (iii) applying Nebraska rates to the result. The federal credit
15 for prior year minimum tax, after the recomputations required by the
16 Nebraska Revenue Act of 1967, and the credits provided in the
17 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska
18 Advantage Research and Development Act shall be allowed as a
19 reduction in the income tax due. A refundable income tax credit shall
20 be allowed for all resident estates and trusts under the Angel
21 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
22 Credit Act, and the Nebraska Advantage Research and Development Act.
23 A nonrefundable income tax credit shall be allowed for all resident
24 estates and trusts as provided in the Nebraska Job Creation and
25 Mainstreet Revitalization Act and the New Markets Job Growth

1 Investment Act.

2 (b) The tax imposed on all nonresident estates and trusts
3 shall be the portion of the tax imposed on resident estates and
4 trusts which is attributable to the income derived from sources
5 within this state. The tax which is attributable to income derived
6 from sources within this state shall be determined by multiplying the
7 liability to this state for a resident estate or trust with the same
8 total income by a fraction, the numerator of which is the nonresident
9 estate's or trust's Nebraska income as determined by sections 77-2724
10 and 77-2725 and the denominator of which is its total federal income
11 after first adjusting each by the amounts provided in section
12 77-2716. The federal credit for prior year minimum tax, after the
13 recomputations required by the Nebraska Revenue Act of 1967, reduced
14 by the percentage of the total income which is attributable to income
15 from sources outside this state, and the credits provided in the
16 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska
17 Advantage Research and Development Act shall be allowed as a
18 reduction in the income tax due. A refundable income tax credit shall
19 be allowed for all nonresident estates and trusts under the Angel
20 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
21 Credit Act, and the Nebraska Advantage Research and Development Act.
22 A nonrefundable income tax credit shall be allowed for all
23 nonresident estates and trusts as provided in the Nebraska Job
24 Creation and Mainstreet Revitalization Act and the New Markets Job
25 Growth Investment Act.

1 (2) In all instances wherein a fiduciary income tax
2 return is required under the provisions of the Internal Revenue Code,
3 a Nebraska fiduciary return shall be filed, except that a fiduciary
4 return shall not be required to be filed regarding a simple trust if
5 all of the trust's beneficiaries are residents of the State of
6 Nebraska, all of the trust's income is derived from sources in this
7 state, and the trust has no federal tax liability. The fiduciary
8 shall be responsible for making the return for the estate or trust
9 for which he or she acts, whether the income be taxable to the estate
10 or trust or to the beneficiaries thereof. The fiduciary shall include
11 in the return a statement of each beneficiary's distributive share of
12 net income when such income is taxable to such beneficiaries.

13 (3) The beneficiaries of such estate or trust who are
14 residents of this state shall include in their income their
15 proportionate share of such estate's or trust's federal income and
16 shall reduce their Nebraska tax liability by their proportionate
17 share of the credits as provided in the Angel Investment Tax Credit
18 Act, the Nebraska Advantage Microenterprise Tax Credit Act, the
19 Nebraska Advantage Research and Development Act, the Nebraska Job
20 Creation and Mainstreet Revitalization Act, and the New Markets Job
21 Growth Investment Act. There shall be allowed to a beneficiary a
22 refundable income tax credit under the Beginning Farmer Tax Credit
23 Act for all taxable years beginning or deemed to begin on or after
24 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

25 (4) If any beneficiary of such estate or trust is a

1 nonresident during any part of the estate's or trust's taxable year,
2 he or she shall file a Nebraska income tax return which shall include
3 (a) in Nebraska adjusted gross income that portion of the estate's or
4 trust's Nebraska income, as determined under sections 77-2724 and
5 77-2725, allocable to his or her interest in the estate or trust and
6 (b) a reduction of the Nebraska tax liability by his or her
7 proportionate share of the credits as provided in the Angel
8 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
9 Credit Act, the Nebraska Advantage Research and Development Act, the
10 Nebraska Job Creation and Mainstreet Revitalization Act, and the New
11 Markets Job Growth Investment Act and shall execute and forward to
12 the fiduciary, on or before the original due date of the Nebraska
13 fiduciary return, an agreement which states that he or she will file
14 a Nebraska income tax return and pay income tax on all income derived
15 from or connected with sources in this state, and such agreement
16 shall be attached to the Nebraska fiduciary return for such taxable
17 year.

18 (5) In the absence of the nonresident beneficiary's
19 executed agreement being attached to the Nebraska fiduciary return,
20 the estate or trust shall remit a portion of such beneficiary's
21 income which was derived from or attributable to Nebraska sources
22 with its Nebraska return for the taxable year. For taxable years
23 beginning or deemed to begin before January 1, 2013, the amount of
24 remittance, in such instance, shall be the highest individual income
25 tax rate determined under section 77-2715.02 multiplied by the

1 nonresident beneficiary's share of the estate or trust income which
2 was derived from or attributable to sources within this state. For
3 taxable years beginning or deemed to begin on or after January 1,
4 2013, the amount of remittance, in such instance, shall be the
5 highest individual income tax rate determined under section
6 77-2715.03 multiplied by the nonresident beneficiary's share of the
7 estate or trust income which was derived from or attributable to
8 sources within this state. The amount remitted shall be allowed as a
9 credit against the Nebraska income tax liability of the beneficiary.

10 (6) The Tax Commissioner may allow a nonresident
11 beneficiary to not file a Nebraska income tax return if the
12 nonresident beneficiary's only source of Nebraska income was his or
13 her share of the estate's or trust's income which was derived from or
14 attributable to sources within this state, the nonresident did not
15 file an agreement to file a Nebraska income tax return, and the
16 estate or trust has remitted the amount required by subsection (5) of
17 this section on behalf of such nonresident beneficiary. The amount
18 remitted shall be retained in satisfaction of the Nebraska income tax
19 liability of the nonresident beneficiary.

20 (7) For purposes of this section, unless the context
21 otherwise requires, simple trust shall mean any trust instrument
22 which (a) requires that all income shall be distributed currently to
23 the beneficiaries, (b) does not allow amounts to be paid, permanently
24 set aside, or used in the tax year for charitable purposes, and (c)
25 does not distribute amounts allocated in the corpus of the trust. Any

1 trust which does not qualify as a simple trust shall be deemed a
2 complex trust.

3 (8) For purposes of this section, any beneficiary of an
4 estate or trust that is a grantor trust of a nonresident shall be
5 disregarded and this section shall apply as though the nonresident
6 grantor was the beneficiary.

7 Sec. 14. Section 77-2734.03, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 77-2734.03 (1)(a) For taxable years commencing prior to
10 January 1, 1997, any (i) insurer paying a tax on premiums and
11 assessments pursuant to section 77-908 or 81-523, (ii) electric
12 cooperative organized under the Joint Public Power Authority Act, or
13 (iii) credit union shall be credited, in the computation of the tax
14 due under the Nebraska Revenue Act of 1967, with the amount paid
15 during the taxable year as taxes on such premiums and assessments and
16 taxes in lieu of intangible tax.

17 (b) For taxable years commencing on or after January 1,
18 1997, any insurer paying a tax on premiums and assessments pursuant
19 to section 77-908 or 81-523, any electric cooperative organized under
20 the Joint Public Power Authority Act, or any credit union shall be
21 credited, in the computation of the tax due under the Nebraska
22 Revenue Act of 1967, with the amount paid during the taxable year as
23 (i) taxes on such premiums and assessments included as Nebraska
24 premiums and assessments under section 77-2734.05 and (ii) taxes in
25 lieu of intangible tax.

1 (c) For taxable years commencing or deemed to commence
2 prior to, on, or after January 1, 1998, any insurer paying a tax on
3 premiums and assessments pursuant to section 77-908 or 81-523 shall
4 be credited, in the computation of the tax due under the Nebraska
5 Revenue Act of 1967, with the amount paid during the taxable year as
6 assessments allowed as an offset against premium and related
7 retaliatory tax liability pursuant to section 44-4233.

8 (2) There shall be allowed to corporate taxpayers a tax
9 credit for contributions to community betterment programs as provided
10 in the Community Development Assistance Act.

11 (3) There shall be allowed to corporate taxpayers a
12 refundable income tax credit under the Beginning Farmer Tax Credit
13 Act for all taxable years beginning or deemed to begin on or after
14 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

15 (4) The changes made to this section by Laws 2004, LB
16 983, apply to motor fuels purchased during any tax year ending or
17 deemed to end on or after January 1, 2005, under the Internal Revenue
18 Code of 1986, as amended.

19 (5) There shall be allowed to corporate taxpayers
20 refundable income tax credits under the Nebraska Advantage
21 Microenterprise Tax Credit Act and the Nebraska Advantage Research
22 and Development Act.

23 (6) There shall be allowed to corporate taxpayers a
24 nonrefundable income tax credit for investment in a biodiesel
25 facility as provided in section 77-27,236.

1 (7) There shall be allowed to corporate taxpayers a
2 nonrefundable income tax credit as provided in the Nebraska Job
3 Creation and Mainstreet Revitalization Act and the New Markets Job
4 Growth Investment Act.

5 Sec. 15. Section 77-3806, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 77-3806 (1) The tax return shall be filed and the total
8 amount of the franchise tax shall be due on the fifteenth day of the
9 third month after the end of the taxable year. No extension of time
10 to pay the tax shall be granted. If the Tax Commissioner determines
11 that the amount of tax can be computed from available information
12 filed by the financial institutions with either state or federal
13 regulatory agencies, the Tax Commissioner may, by regulation, waive
14 the requirement for the financial institutions to file returns.

15 (2) Sections 77-2714 to 77-27,135 relating to
16 deficiencies, penalties, interest, the collection of delinquent
17 amounts, and appeal procedures for the tax imposed by section
18 77-2734.02 shall also apply to the tax imposed by section 77-3802. If
19 the filing of a return is waived by the Tax Commissioner, the payment
20 of the tax shall be considered the filing of a return for purposes of
21 sections 77-2714 to 77-27,135.

22 (3) No refund of the tax imposed by section 77-3802 shall
23 be allowed unless a claim for such refund is filed within ninety days
24 of the date on which (a) the tax is due or was paid, whichever is
25 later, or (b) a change is made to the amount of deposits or the net

1 financial income of the financial institution by a state or federal
2 regulatory agency.

3 (4) Any such financial institution shall receive a credit
4 on the franchise tax as provided under the Community Development
5 Assistance Act, the Nebraska Job Creation and Mainstreet
6 Revitalization Act, and ~~under~~ the New Markets Job Growth Investment
7 Act.

8 Sec. 16. Original sections 49-801.01, 77-908, 77-2715.07,
9 77-2717, 77-2734.03, and 77-3806, Revised Statutes Cumulative
10 Supplement, 2012, are repealed.